

AN ORDINANCE

03-0-1881

BY THE COMMUNITY DEVELOPMENT/HUMAN RESOURCES COMMITTEE

**AN ORDINANCE TO CHANGE THE EFFECTIVE DATE OF CREATION OF THE "PONCE SPRINGS APARTMENTS MIXED-USE RESIDENTIAL/COMMERCIAL ENTERPRISE ZONE" FROM JANUARY 1, 2002 TO JANUARY 1, 2005, AND FOR OTHER PURPOSES.**

**WHEREAS**, an amendment to the Constitution of the State of Georgia was adopted by referendum in November 1982 giving the Council of the City of Atlanta power to create urban enterprise zones in the City of Atlanta; and

**WHEREAS**, enabling legislation that is known as the Atlanta/Fulton County Urban Enterprise Zone Act was enacted by the Georgia General Assembly, signed by the Governor in March 1983, and subsequently amended; and

**WHEREAS**, the Atlanta/Fulton County Urban Enterprise Zone Act gives the Council of the City of Atlanta the authority to designate areas within the City as urban enterprise zones for mixed-use residential/commercial purposes; and

**WHEREAS**, by ordinance that was adopted on October 1, 2001 by the Council and approved on October 9, 2001 by the Mayor, the Ponce Springs Apartments Mixed-Use Residential/Commercial Enterprise Zone was created to become effective on January 1, 2002; and

**WHEREAS**, the Ponce Springs Apartments Mixed-Use Residential/Commercial Enterprise Zone has remained undeveloped as a result of unanticipated development impediments; and

**WHEREAS**, The State of Georgia General Assembly's House Bill 483 amends the Atlanta/Fulton County Urban Enterprise Zone Act by giving the Council of the City of Atlanta the authority to change the effective date for local enterprise zones that remain undeveloped as a result of unanticipated development impediments; and

**WHEREAS**, Miller Gallman Developers, LLC has formally requested, via their October 7, 2003 letter comprising Exhibit "A", that the effective date of the Ponce Springs Apartments Mixed-Use Residential/Commercial Enterprise Zone be changed from January 1, 2002 to January 1, 2005 due to development impediments which have been caused by the national events occurring on September 11, 2001; by the subsequent downturn in the economy; by the imbalance of the Atlanta intown market; and by increasing costs.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS AS FOLLOWS:**

**Section 1:** The Ponce Springs Apartments Mixed-Use Residential/Commercial Enterprise Zone is hereby amended.

**Section 2:** The effective date of all exemptions that were established therein shall be January 1, 2005. The Ponce Springs Apartments Mixed-Use Residential/Commercial Enterprise Zone shall be abolished on December 31, 2014. The Ponce Springs Apartments Mixed-Use Residential/Commercial Enterprise Zone shall otherwise not be abolished except as provided in State law. A legal description of the Ponce Springs Apartments Mixed-Use Residential/Commercial Enter-

prise Zone is attached hereto as "Exhibit B", and made a part hereof, and shall be on file in the Bureau of Planning and the Office of the Municipal Clerk.

**Section 3:** Twenty percent (20%) of the total units to be provided, and ten percent (10%) of the units in each housing type and bedroom composition, shall be within the ability to pay of those households whose annual income does not exceed sixty percent (60%) of the median family income for the Atlanta Metropolitan Statistical Area, as was most recently published by the United States Department of Housing and Urban Development (HUD), and as is adjusted for household size in accordance with HUD procedures. For said units, the property owner shall verify each tenant's household income at the time that said tenant initially executes a lease agreement. Furthermore, the property owner, by January 31 of each year, shall submit a report to the Commissioner of Planning and Development, indicating the household income of each tenant who executed a lease agreement during the previous calendar year.

**Section 4:** The Municipal Clerk is hereby directed to transmit a copy of this ordinance as well as the legal description of the Ponce Springs Apartments Mixed-Use Residential/Commercial Enterprise Zone to the Tax Commissioner of Fulton County, to the Commissioner of the Department of Community Affairs of the State of Georgia, and to the Superintendent of the Atlanta Board of Education immediately upon the approval by the Mayor of the City of Atlanta.

**Section 5:** That all ordinances and parts of ordinances that are in conflict herewith are hereby repealed.

**EXHIBIT "A"**  
**Letter of Request**  
**From the Developer**



MILLER GALLMAN  
DEVELOPERS LLC

236 Forsyth Street, SW  
Suite 104  
Atlanta, Georgia 30303

telephone 404.584.0101  
facsimile 404.581.0206  
www.atlantaloftco.com

October 7, 2003

Mr. Charles Graves, Commissioner  
Department of Planning and Community Development  
68 Mitchell St., SW  
Suite 3350  
Atlanta, GA 30335-0308

**COPY**

Re: Ponce Springs Apartments, Mixed Use Residential/Commercial Enterprise Zone

Commissioner Graves:

In October, 2001, the Atlanta City Council and Mayor approved a Mixed Use Enterprise Zone for the purpose of development of a mid-rise building across from City Hall East in the Old Fourth Ward neighborhood.

At the time, we had full intentions of beginning the development early in 2002, the first year the Enterprise Zone exemptions were effective. The events of September 11, 2001, the subsequent slow down in the economy, and the imbalance in the in-town apartment market made that start date unwise and impractical. It has taken two years for the markets and the economy to recover sufficiently to consider the development of the property.

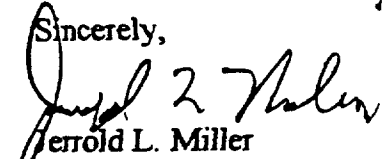
Even so, the difficulties in development of a mixed-use project in-town remain enormous. While rental rates have declined, costs have increased for many components of a mid-rise structure. The incentives provided by the enterprise zone are an absolute necessity for feasibility of a mid-rise, mixed income project in-town.

We respectfully request a modification of our Enterprise Zone legislation statute to reflect a start date of January, 2005. We believe that now, more than ever, the neighborhood around City Hall East needs improvement in the environment along North Ave. and the Old Fourth Ward neighborhood. We further believe that Ponce Springs will stimulate positive evolution of the Ponce/North Ave. corridor, a street friendly addition to the neighborhood, and a focal point for the Glen Iris and Old Fourth Ward communities. Granting this request will assist us greatly in making this project feasible.

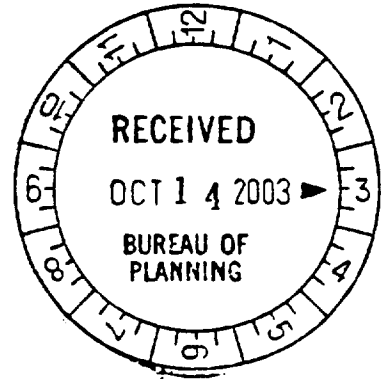
## EXHIBIT "A", Continued

Thank you in advance for your consideration of this request, and we look forward to making this mixed income project in the Ponce corridor a reality.

Sincerely,

  
Terrold L. Miller  
Miller-Gallman Developers

Cc: Councilwoman Anne Fauver  
Councilwoman Debi Starnes  
Cathy Woolard, President of City Council  
Sarah Wade Hicks  
Linda Logan



## EXHIBIT "B"

All that tract or parcel of land lying and being in Land Lot 48 of the 14th District of Fulton County, Georgia, being more particularly described as follows:

BEGIN at a nail and cap set that forms the intersection of the northerly right-of-way line of North Avenue (80' right-of-way) and the westerly right-of-way line of Glen Iris Drive (75' right-of-way); thence travel along said northerly right-of-way line of North Avenue north  $81^{\circ}41'48''$  west a distance of 195.00' to a  $\frac{3}{8}$ " open top pipe found; thence continue along said right-of-way line north  $81^{\circ}25'57''$  west a distance of 217.79' to a point; thence leave said right-of-way line and travel north  $42^{\circ}32'54''$  east a distance of 186.95' to a  $\frac{5}{8}$ " rebar set; thence travel south  $50^{\circ}36'19''$  east a distance of 15.00' to a  $\frac{5}{8}$ " rebar set; thence travel south  $83^{\circ}01'49''$  east a distance of 293.95' to a  $\frac{1}{2}$ " rebar found on said westerly right-of-way line of Glen Iris Drive; thence travel along said right-of-way line south  $07^{\circ}58'48''$  west a distance of 154.64' to a nail and cap set on said northerly right-of-way line of North Avenue, said nail and cap being the POINT OF BEGINNING.

All as shown as Parcel 1 and Parcel 2, being 1.25 acres, 54,579 sq. ft., on that certain survey entitled "Boundary and Topographic Survey For: Ponce Springs Acquisition, LLC, Regions Bank", prepared by Armstrong Land Surveying, Inc., bearing the seal and certification of Robert T. Armstrong, Georgia Registered Land Surveyor No. 1901, dated February 2, 2000, last revised May 24, 2000.

**EXHIBIT "B", Continued  
Project Location Map**

Proposed Ponce Springs Apartments  
Mixed-Use Residential/Commercial  
Enterprise Zone



== Main streets  
□ Main parcels

**NORTH**

**GLEN IRIS**

**ARNOLD**

**KENNESAW**

**PONCE SPRINGS APARTMENTS**